



Policies, Regulations and Institutional Framework for Improved Sanitation in Kigali: Rwanda Public Policy Observatory Report 2

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Acronyms and Abbreviations

BAD:	African Development Bank
EU:	European Union
EDPRS:	Economic Development and Poverty Reduction Strategy
EIA:	Environmental Impact Assessment
EWSA:	Energy, Water and Sanitation Authority
MDGs:	Millennium Development Goals
MINAGRI:	Ministry of Agriculture and Animal Resources
MINALOC:	Ministry of Local Government
MINECOFIN:	Ministry of Finance and Economic Planning
MINEDUC:	Ministry of Education
MINELA:	Ministry of Environment and Lands
MINIJUST:	Ministry of Justice
MININFRA:	Ministry of Infrastructure
MINIRENA:	Ministry of Natural Resources
MINISANTE:	Ministry of Health
MINITERE:	Ministry of Lands
NGO:	Non Government organizations
REMA:	Rwanda Environmental Management Authority
RURA:	Rwanda Utilities Regulatory Agency
SPLASH:	European Union Water Initiative Research Area Network
UNDP:	United Nations Development Programme
UNEP :	United Nations Environment Programme
WB:	World Bank
WHO:	World Health Organization

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Executive summary

Rwanda, like most developing countries, is facing many challenges in sanitation sector. One of the main factors why the country cannot cope effectively with sanitation problems is the lack of an improved “*Policy, Regulations and Institutional Framework*”. This observatory report attempts to review the existing policies, legislations as well as institutions and identifies requirements of an improved sanitation.



Introduction

Lack of an improved “*Policy, Regulations and Institutional Framework*” has long been a constraint in implementing environmental protection as well as sanitation improvement in many developing countries (P.B. Anand, 2006). Municipal authorities often focus purely on technical issues and pay little attention to develop an adequate conceptual and operational framework for the sanitation improvement. In general, institutions at all levels of governments have not established effective sanitation *policies, regulations and programs* that take into account specific problems where they exist.

To address this problem, many international organizations such as the World Bank, UN-Habitat, the UNDP, UNEP and WHO, have been heavily involved in providing technical assistance and finance for environmental legislation development in these countries (H. Koanda, 2006). Best practices are accumulating with innovative approaches to sanitation management, of which the *integrated approach* is gaining world-wide acceptance today (Y. M. Sou, 2009).

The integrated approach in sanitation, requires an effective *Policy, Regulations and Institutional Framework* that underlies principles that govern the public health, the quality and sustainability of the environment, the efficiency and productivity of the urban economy, and creating jobs and generating incomes for people (H. Koanda, 2006). Technically, the integrated sanitation management relies on the use of the main following instrument: *Improved Policy, Regulations and Institutional Framework*.

The question is how to apply this instrument appropriately and effectively into specific context. In general, national law is the basis for improving sanitation practices in any country. It permits national agencies responsible for the environment and sanitation to apply pressure for their implementation. There should be a clear designation of responsibilities before the law is enacted. The law should be complemented by a policy document, and by technical guidelines developed for implementation of the law. Our study of the “*Policy, Regulatory and Institutional Framework*” relating to sanitation in Rwanda, and particularly in Kigali city, attempts to analyze the existing framework. Therefore, all types of legal texts such as laws, organic laws, policies at both national and municipal levels, and policy texts will be used as an empirical background for this paper.

“*The Policies, Regulations and Institutional Framework*” review the existing policies, legislations, institutions relevant to SPLASH Project and identifies requirements that will guide the development of sanitation. Rwanda being a signatory to various international conventions and laws, it is important to assess that national projects are in line with these laws and therefore, some of the relevant international conventions are reviewed in this report.



I. Policy Framework

Besides *Water and Sanitation Sector Policy*, *Environmental Health Policy*, *National Urban Housing Policy*, *Health Sector Policy* and *Land Policy*, which complement an *Environmental Policy*, provision of Water and Sanitation are very much emphasised in other major country's policies and documents such as *National Human Settlement Policy*, *National Water Resources Management*, *National Wetlands Conservation Program*, *Vision 2020*, *EDPRS* and *National Investment Strategy Document*, *Millennium Development Goals*. But before this, let us have a look at the international conventions and protocols which are directly or indirectly related to the SPLASH Project.

i. International conventions and protocols

Rwanda is a signatory to a number of conventions and protocols which are directly or indirectly related to this project.

A. Ramsar Convention on Wetlands

The “*Convention on Wetlands*” is an intergovernmental treaty which provides the framework for national action and international cooperation for the conservation and wise use of wetlands and their resources (REMA, 2011). There are presently 146 contracting parties to the convention, with 1508 wetland sites. The Convention calls for governments to provide framework for national action and international cooperation for the conservation and wise use of wetlands and their resources.

B. Convention on the Protection and Use of Transboundary Watercourses

The “*Convention of the Protection and Use of Transboundary Watercourses (Water Convention)*” is intended to strengthen national measures for the protection and ecologically sound management of transboundary surface waters and groundwater. The convention obliges parties to prevent, control and reduce water pollution from point and non point sources (REMA, 2011). The convention also includes provisions for monitoring, research and development, consultations, warning and alarm systems, mutual assistance, institutional arrangements, and the exchange and protection of information, as well as public access to information. Article 3 of the convention calls for the application of environmental impact assessment and other means of assessment for the prevention, control and reduction of water pollution to transboundary watercourses.

C. World Commission in Dams

The “*World Commission on Dams (WCD)*” was set up in 1998 by the World Bank and the World Conservation Union (IUCN). The commission represented all stakeholders involved in the dams' debate, including industry, governments, water resource managers and dams affected people. The commission gives a clear guidelines and recommendations for decision makers aimed at safeguarding rights, reducing the

risk of conflicts and lowering overall costs, including social and environmental ones. The commission also proposed improved management of existing dams in order to minimise environmental and social impacts (REMA, 2011).

D. EAC Protocol on Environment

The protocol was signed by the partner states of the “*East African Community*” on 29th November 2003. It has relevant provisions for environmental and social management for the project. Article 5: Paragraph 4 provides that partners states should promote sustainable utilization of water resources while taking into consideration factors such as ecology, geographic, climatic, hydrologic factors among others; the social and economic needs of each partner states; the population dependent on the water resources; existing & potential uses of the water resources.

Article 6: Paragraph 1 identifies the protection and conservation of the basin and its ecosystem with emphasis on improving water quality (REMA, 2011).

Part 2 of the article provides for the harmonization of laws and policies for stakeholder participation in protection, conservation and rehabilitation. Article 12 of the protocol urges partner states to develop national laws and regulations requiring project proponents to undertake EIA and review of EIA reports to be done by all the partner states if the potential impacts are likely to be trans boundary and the same to apply for Environmental Audits in Article 13 (REMA, 2011). Public participation is provided for in Article 22 which should be enhanced to influence government decisions on project formulation and implementation. Article 23 of the protocol provides that partner states should promote community involvement and mainstreaming gender concerns at all levels of socio economic development especially in decision making, policy formulation and implementation of projects and programmes.



2. General Framework

A. Millennium Development Goals

The International *Millennium Development Goals* (MDGs), to which Rwanda is committed, include a target directly referring to Water and Sanitation services. That target states that “*halve, by 2015, the proportion of the population without sustainable access to safe drinking water and basic sanitation* (Mehta, A. & Knapp, A. 2004).”

B. The Rwanda Vision 2020 (2002-2020)

The Vision 2020 is a guiding document which spells the Country’s Development Agenda and Policies. In regard to Water and Sanitation sector, the 2020 Vision aspiration is that all Rwandans will have access to safe drinking water in 2020 (MINECOFIN, 2002). Some relevant paragraphs of “Vision 2020” are quoted like this:

“

Water: All Rwandans will have access to safe drinking water; water resource management will be rationalized, integrated and in harmony with the national land-use master plans in all water dependant domains”;

“

Waste Management: At least 80% of the Rwandan population will have easy access to adequate waste management systems and will have mastered individual and community hygiene practices. By 2020, the rural and urban areas will have sufficient sewerage and disposal systems; each town will be endowed with an adequate unit for treating and compressing solid wastes for disposal. Households will have mastered and be practicing measures of hygiene and waste disposal”

This “*Vision 2020*” sets the increase rate of 2.5% per annum from 52% which was the accessibility in the year 2000, reorganises poor sanitation systems as cause pollution of water resources, the environment and human diseases. To achieve the Sanitation targets by 2020, the urban as well as rural areas are expected to mobilize sufficient investment for sewerage and disposal systems, in addition to which, each town will have adequate facilities for treating and compressing solid wastes for disposal (MINECOFIN, 2002).

C. The EDPRS (2008-2012)

The *Economic Development and Poverty Reduction Strategy* (EDPRS) is Rwanda’s Medium Term Framework for achieving its long term development aspirations (MININFRA, 2010). In other words, it is an *implementation strategy for Vision 2020 and incorporates the Millennium Development Goals*. It covers the actions of improving living conditions of the poor, economic infrastructure, governance, development of



the private sector and the institutional reinforcement. Adopted in September, 2007, EDPRS specifies the priorities to be achieved during the five-year period 2008-2012. During the EDPRS period, the sector aims “to increase the proportion of the population accessing safe water from 64% to 86%, and the proportion with sanitation services from 38% to 65%. It is also planned to increase the proportion of the rural population living within 500m of an improved water source from 64% to 85%, and to raise the proportion of the urban population residing within 200m of an improved water source from 69% to 100%. As regards to Sanitation, the sector plans that the proportion of schools with latrines complying with health norms will rise from 10% to 80%, and that the corresponding proportion for rural households will increase from 38% to 65%” (MINECOFIN, 2007).

As far as Water and Sanitation are concerned, EDPRS is the only document which sets up goals and indicates the progress made so far compared 1990, a baseline year for MDG for Sustainable Development. However there is no consistency in its data base in Water and Sanitation sector, because the data presented in EDPRS do not match with the data in the first version named PRSP, and National Water and Sanitation Policy. It was also observed EDPRS lacks strategies for sanitation which will help to achieve the set goals. Under EDPRS, the government set itself an even more ambitious goal of increasing the proportion of the population with sanitation services from 38% to 65% (J.Sano, 2007).



3. Policies relevant to provision of improved sanitation

A. Environmental Policy

The overall objective of the *Environmental Policy* is the improvement of population's wellbeing, the judicious utilization of natural resources and the protection and rational management of ecosystems for a sustainable and fair development (MINITERE, 2003). The Policy seeks to achieve this through improved health and quality of life for every citizen and promotion of sustainable socio economic development through a rational management and utilization of resources and environment, integrating environmental aspects into all the development policies, planning and in all activities carried out at the national, provincial and local level, with the full participation of the population, conservation, preserve and restoration of ecosystems and maintenance of ecological and systems functions, which are life supports, particularly the conservation of national biological diversity, optimum utilization of resources to attain a sustainable level of resources consumption, awareness creation among the public to understand and appreciate the relationship between environment and development, ensuring participation of individuals and the community in the activities for the improvement of environment with special attention to women and the youth and ensuring the meeting of the basic needs of present population and those of future generations. The Policy recognises the adoption of environmentally friendly technologies and that the technology constitutes high priority for central and local authorities. The Policy also understands the role of private sector and civil society in coordinated and harmonious actions which favour the environment (MINITERE, 2003).

B. National Water and Sanitation Sector Policy

The “*National Water and Sanitation Policy*” is a very important document which guides Water and Sanitation provision in the country. It is based on “*Vision 2020*”, “*Millennium Development Goals*” and “*Poverty Reduction Strategy*” (MININFRA, 2010). The Policy provides for Decentralization in line with the *National Decentralization Policy*, institutional aspects, integrated watershed management, monitoring and assessment and participatory approach to Water and Sanitation (MININFRA, 2010). The Policy proposes measures to achieve policy objectives of improving the living conditions of the population through optimal use of water resources and access of all to water and sanitation services. For instance, marshlands are a source of domestic water and development of these areas could have a bearing in water and sanitation of the communities. The Policy is oriented to achieving the *Vision 2020*, MDGs and other national and international policies and agreements such as *National Investment Strategy*, *Agenda 21*, etc. The *National Water and Sanitation Policy* focuses on six sanitation related fronts: *household sanitation, institutional sanitation, collective sanitation, storm water drainage, solid waste management and institutional sector framework*. This Policy draws greater focus to urban sanitation, defining a policy framework that supports the *Sanitation Master Plan for Kigali city*. The formulation of sanitation services policy is guided by a number of central tenets.



These are:

- » Priority to basic services: Each person and community has equal right to access basic water services. Priority will be given to “some for all” rather than “all for some”, until the Vision 2020 goal of access to safe drinking water for all is reached. Due attention will be given to affordability considerations;
- » Decentralization: The responsibility for service delivery is vested at the decentralized level. The water and sanitation sector is committed to building and strengthening decentralized planning, implementation and management capacities;
- » Community participation: The beneficiaries of water supply and sanitation services shall be actively involved in planning, decision making and oversight throughout the project implementation cycle. In particular, they will choose the service level that responds to their needs and capacities;
- » Cost recovery and financial sustainability: Operation and maintenance costs of water supply and sanitation infrastructure shall be borne by the users, in order to ensure sustainable service delivery. Affordability shall be addressed by the choice of appropriate technologies and by enhancing efficiency, not usually by granting subsidies. The polluter-pays and user-pays principles are to be applied in sewerage and waste management;
- » Private sector participation: The sector will continue to promote delegated management through private operators, which is the key strategy to enhance the sustainability of rural water infrastructure. The private sector will also be encouraged and supported in developing capacities for investment, construction and service delivery in water supply, sanitation and solid waste management;
- » Operational efficiency and strengthening of accountability are seen as priorities in both urban and rural infrastructure development and management, in order to improve financial viability, minimize fiduciary risk (checks and balances) and optimise the use of the available resources;
- » Emphasis on sanitation and hygiene: The sector recognizes the critical importance of sanitation and hygiene behaviour change for the achievement of sustainable health benefits. Sanitation and hygiene activities and projects shall be developed through strategic cooperation with the health and education sectors. Any water supply projects shall systematically consider sanitation implications and hygiene education requirements;
- » Interests of women and children: The crucial roles and the particular interests of women and children are fully acknowledged. All sector activities shall be designed and implemented in a way to ensure equal participation and representation of men and women, and to pay due attention to the viewpoints, needs and priorities of women;



- » Grouped settlements: The water and sanitation sector gives preferential consideration to service delivery in grouped settlements, taking into account the changing habitat structure;
- » Environment and water resources protection: Water supply and sanitation services will be developed in close coordination with water resources management, based on an integrated approach. Water use should be rational and sustainable and shall abide with environmental regulations and safeguards. Waste disposal shall be planned and managed with a view to minimize environmental impact and ensure the protection of water resources;
- » Inclusive programme approach: The water and sanitation sector aims to develop a consistent, national approach, to harmonize financing and implementation modalities and to optimize stakeholder coordination.

C. Health Sector Policy

One of the objectives of Rwanda *Health Sector Policy* is to improve the quality of and demand for services in the control of disease through hygiene promotion (MINISANTE, 2005). The Policy identifies the most common illnesses in Rwanda and puts priority to addressing these diseases. The Policy calls for the strengthening of measures of prevention and the improvement of the management of cases building on the multi sectoral approach. The approach consists of rapid diagnosis and treatment of cases, increase in the protection of individuals and communities using preventative methods (impregnated mosquito nets, intermittent presumptive chemo prophylaxis treatment for pregnant mothers, management of the environment, including vector control). Irrigation projects and marshlands having a role to play in malaria incidences, the policy in these subproject areas should emphasise more on environmental control of the disease vector especially in marshy areas as opposed to curative services (MINISANTE, 2005).

D. The Environmental Health Policy

The Environmental Health Policy concretised the shift in the government's strategy to improve health indicators from curative to preventive approaches (MINISANTE, 2008). The Health Sector Strategic Plan 2009-2012 further supports this by identifying sanitation as a high –impact intervention that the government will scale up (Ministry of Health, 2008).



E. National Water Resources Management Policy

The “*National Water Resources Management Policy*” aims at fair and sustainable access to water, improvement of the management of water resources, etc. through reforestation on hillsides and water catchments areas (REMA, 2011). This Policy is relevant to *SPLASH Project* as most of the project activities will be undertaken in areas with unimproved sanitation including in swamps.

F. Land Policy

The most relevant section in the new *Land Policy* is chapter 5 on land policy guidelines. This chapter deals among others with the use and management of hill lands and marshlands in Rwanda (MINIRENA, 2004). The Policy calls for rational use and sound management of national land resources and be based on master plans. The Policy also provides development of land use plans based on suitability of the areas/lands/swamps thus distinguishing the different categories of land and their purpose. On the use and management of marshlands, the Policy stipulates that marshlands should be protected for human occupation (industries, etc.) except after adequate planning and environmental impact assessment. To achieve the Land Policy objectives, the Policy calls for the maintenance of marshlands in the state’s private land and establishment of clear regulations for their sustainable use in order to avoid any disorderly human occupation with negative environmental consequences, undertaking an inventory of marshlands and clarification of their location. The Policy recognizes the importance of land tenure in the investment in land management and provides for land concession. However, the Policy needs to be operationalized to establish minimum and maximum concession period for marshlands (MINIRENA, 2004). The period will determine the rate of investment in these areas and provide for environmental management.

G. National Human Settlement Policy

The main objective of the “*National Human Settlement Policy*” in the urban areas is to improve the settlement conditions of the urban population. However the policy is completely silent on sanitation issues (J. Sano, 2007). For example, the policy does not determine or guide land use for sanitation or solid waste management in urban areas.

H. National Urban Housing Policy for Rwanda

This Policy recognizes the need to ensure that people have access to potable water and adequate sanitation facilities. The process of upgrading and provision of services for urban areas will be carried out upon taking into account the income levels of households as well as infrastructure and services to be established (MININFRA, 2008). According to this policy, the upgrading is not synonymous with razing an entire neighbourhood; instead, it means rational redevelopment in order to improve the living conditions of the population. It is important to mention that sanitation is



not always given careful consideration in practice and adapted to existing site conditions including storm water drainage.



4. Programmes Relevant to Provision of Improved Sanitation

A. National Wetlands Conservation Program

Though not a policy as such, the wetland convention implementation office in Rwanda has formulated a “*National Wetland Conservation Program for 2002,2030*” jointly working with the National Commission for Development and Reform, MINICOFIN, MINEDUC, MINITERE and MINAGRI. The program aim at engaging the various government ministries in wetland conservation and ensure a holistic approach to wetland management (REMA, 2011). All authorities concerned will have proper co-ordination of activities concerning wetland management, a factor which leads to efficiency implementation of policies. To avoid further exploitation of the resources, Rwandan Government has established rules governing wetlands in the country. This is done by subjecting any acts concerned with water and its resources like watering plants, the use of swamps to prior environmental impact assessment which is submitted for approved to REMA or any person given a written authorization by REMA.

B. National Investment Strategy

The “*National Investment Strategy*” is a document which encourages the private sector to participate in the provision water and sanitation systems in urban and rural areas at affordable prices for the citizen (MINECOFIN, 2002). It states that the state will continue to play a leading role in the development of water and sanitation sector through the provision of the necessary infrastructure. Investment related to sanitation should not be handled solely by Government, but must be supported by the private sector, NGO's, and local communities according to their respective capacities and capabilities. Urban development must consequently be well planned in a progressive and participatory manner according to the capacities of various players in the sector. However, according to this strategy, emphasis should be placed on the role of women in the implementation of the “*National Urban Housing Policy*”.

C. National Land Tenure Reform Programme

“*Land Tenure Reform Programme*” refers to the improvement of land tenure security and the establishment of new, and reform of old, institutions governing access to and ownership of land. Land tenure reform addresses tenure security and land administration, and land use, management and planning. It manages the process of land tenure reform, from its design, phasing, implementation, monitoring and eventual evaluation. The Programme was launched in 2005 to coincide with a technical assistance project supported by the UK Government's Department for International Development - DFID to design a strategic road map for the implementation of land tenure reform (MINIRENA, 2007).



5. Financing sources

As far as financing aspect is concerned, it is noticed that a large share of investments is financed by donors, including by the World Bank (like *Projet des Infrastructures et Gestion Urbain "PIGU"*), European Union (like *Programme d'Appui a la Rencertion Ecomique et Sociale de démobilisé de la ville Kigali "PARES"*), African Development Bank, etc. The Government of the Netherlands has recently committed US\$22 million for Water for Sanitation and Hygiene (WASH) project to be implemented by UNICEF (MINIRENA, 2010). The aim of the project is to increase the provision of water services and of sanitation facilities as well as to spread good hygiene practices. Communities contribute to the initial capital costs. In 2009, the World Bank's Water and Sanitation Program and the Government of Rwanda completed a study of Rwanda's funding mechanisms for water and sanitation which found that "*existing financing modalities are highly fragmented and not appropriate for consistent financing of an ambitious water sector program*" (MINIRENA, 2010).

Also, Water and Sanitation are financed by money from recurrent as well as development budget of MINITERE, under its Water and Sanitation unit. Recurrent budget covers day- to- day activities and salaries of sector employees and comes from internal revenues, while much of the money for development budget is provided by external donors, and is spent for water and sanitation infrastructure development as well as water resource management. There are other Ministries such as MINISANTE, and MINEDUC, which also tend to finance their own water and sanitation projects like, sanitation for schools, hospitals, or water supply (MINIRENA, 2010)¹.

In regards to financing of domestic, institutional and industrial sanitation systems, it is obvious that since there is no centralised sewer system in Kigali, individual households, institutions, businesses and industries are responsible in construction and maintenance of their sanitation systems. In general, households with financial power will own a septic tank, because it more hygienic but require enough water supply and more money to construct than traditional pit latrine which are owned by those who are not financially powerful (J. Sano, 2007). The cost of construction of a complete automatic flushing toilet with a septic tank in Kigali can be in a region of 1,500 to 3,000US dollars, which is a lot of money for a common resident, while a tradition pit latrine can be around 180-350US dollars, depending on the material used on the supper structure. The cost of a pit latrine has dramatically risen in recent years because of the government's new law, which ban unauthorised cutting of trees, even if you have a forest farm. This has also resulted in high prices of burned bricks.

To achieve the challenging sector targets, it will be necessary to maintain high funding levels, by using all sources and different modalities of funding, while in the same time ensuring value for money and sustainability of the funded infrastructure. Therefore, the establishment a Water and Sanitation Fund (WSF) is required and will act as a harmonised financing mechanism that provides sufficient flexibility to handle money from different sources including the government budget, earmarked donor

¹ This diversity of sources needs to be harmonised so that the sector can pursue good data management on the development of the sector



funding and possibly other internal sources of revenue, and to offer (co)funding modalities addressing the private sector as it is planned in National Policy and Strategy for Water Supply and Sanitation Services (MINIRENA, 2010).

ii. Legal Framework and relevant provisions

On the side of legal framework, new *Rwandan Constitution* of 2003, the *Organic Law determining the modalities of protection, conservation and promotion of environment* of April 2005, different ministerial orders and acts, underscore the right of the citizen to good living environment. They both underline obligations of the state and individual citizen to protect the environment. In addition, the organic law for environmental protection has preventive and punitive provisions for those who pollute or destroy the environment.



I. General Legal Framework

A. The Constitution of the Republic of Rwanda

Adopted by the Rwandans during the Referendum of 26th March, 2003, Rwandan Constitution (Republic of Rwanda, 2003) clearly states:

- » Article 30: The private property of soil and other real rights putting a strain to the soil granted by the government (state). An Act determines the acquisition, transfer and exploitation means;
- » Article 31: The state property consists of the public sector and the private sector of the government together with the public sector and private sector of decentralized public communities. The properties of the public sector are inalienable except in case of their previous disuse in favour of the private concession of the government;
- » Article 49: Each citizen has the right to healthy and satisfying environment. Each person has the right to protect to conserve and promote the environment. The government will take care of the environment protection. An Act defines the procedures of protecting, conserving and promoting environment;
- » Article 190: The treaties and international agreements regularly signed and approved have since their making public within the official magazine, an authority superior to that of the organic laws and those of ordinary laws, under reserve, for each agreement or treaty of its execution by the other part.

2. Laws

A. Organic Law No 04/2005 of 08/04/2005 on Environment Protection and Management

The most relevant legislation for this study is the “*Organic Law on Environmental Protection, Conservation and Management*”. This is the law that regulates the protection of Environment in Rwanda. The law sets out the general legal framework for environment protection and management in Rwanda. It also constitutes environment as a one of the priority concerns of the Government of Rwanda. Under the fundamental principle on National Environmental Protection Policy, this law develops national strategies, plans and programs, aiming at ensuring the conservation and use of sustainable environmental resources. The law gives right to every natural or legal person in Rwanda to live in a healthy and balanced environment.

The principle of sustainability of environment and equity among generation emphasizes human beings at the core of Sustainable Development. They therefore, have a right to a healthy and productive life in harmony with nature. Chapter IV of the Organic Law Article 65 clearly calls for the need to subject projects to mandatory Environmental Impact Assessment. Article 3: States that every person has the duty to protect safeguard and promote environment. The State shall protect, conserve and manage the environment. Article 65: Further specifies that every project shall be subjected to environmental impact assessment prior to its commencement. It shall be the same for programs, plans and policies likely to affect the environment. Specific details of projects referred to in this article shall be spelt out by the order of the Minister in charge of environment. The Organic Law also puts in place the National Fund of the Environment in Rwanda (FONERWA). The article 66 of the Organic Law on the environment specifies that it has created, to the level of the Provinces, of the City of Kigali, of the Districts, the Cities, the Sectors and the Cells, Committees responsible for the conservation and the protection of the environment.

Table I. Sanctions for Solid and Wastewater Management according to the Organic law on Environmental Protection

Type of violations	Measures of monetary sanctions
Anyone who undertakes illegal research or commercial activities of valuable minerals	A fine ranging from one million (1,000,000) to two million and five hundred thousand (2,500,000) Rwandan francs and an imprisonment ranging from six (6) months to two (2) years or one of these penalties.



Anyone who dumps in unaccepted manner or without authorisation any waste that is subject to prior authorisation provided for by this organic law	A fine ranging from one million Rwandan francs (1,000,000) to five million (5,000,000) Rwandan francs and an imprisonment ranging from six (6) months to two (2) years or one of these two penalties
Anyone who pollutes inland water masses by dumping, spilling or depositing chemicals of any nature that may cause or increase water pollution	A fine ranging from two million (2,000,000) to five million (5,000,000) Rwandan francs and an imprisonment ranging from two (2) months to two (2) years or one of these penalties
Any treatment plant which is authorised to treat waste products but which dumps it in inappropriate place	A fine ranging from one million (1,000,000) to ten million (10,000,000) Rwandan francs
Any person who deposits, abandons or dumps waste, materials, or who pours sewage in a public or private place	A fine ranging from ten thousand (10,000) to one hundred thousand (100,000) Rwandan Francs except if such a place has been designated by competent authorities

Source: *Extracted from Rwandan Organic Law (No. 04/2005) determining the modalities of protection, conservation and promotion of environment*

B. The Organic Law related to the Land Policy in Rwanda N°08/2005 of 14/07/2005

Gazetted in September 2005, the “*Organic Law determining the use and management of land in Rwanda*”, commonly known as the Organic Land Law, sets the framework for a workable “*National Land Policy*”. The Law sets out the role of the State, the rights and duties of land owners, the categories of land and the institutions for land



management. It determines the terms of use and management of land in Rwanda. It also fixes the principles to be applied to the recognized rights on the whole lands located along the national territory together with anything connected to it and which is incorporated to it, either naturally or artificially. The Article 3, precise that the land is involved (included) within the common inheritance of all the Rwandan people; the ancestors, the presents and future generations.

Notwithstanding the rights recognized to people, only the government (state) holds the distinguished related to the land's management along the national territory that it uses in the general interest of all in order to assure the rational economic and social development in a way defined by the law. Related to this issue, only the government has power to grant the rights of occupation and use of the land, it also has the right to order the expropriation due to a public cause of public necessity, housing conditions and development (fixing up) of the national territory in the way defined by law against a fair and previous compensation. The Article 4 mentions that any kind of discrimination, in particular the one focused on gender and to the use of land's rights is prohibited. The man and woman have the same rights related to the land's property.



C. Law N° 16/2006 of 03/04/2006 determining the organisation, functioning and responsibilities of Rwanda Environment Management Authority

This law determines the responsibilities, powers, organisation and the functioning of the national authority to manage environment known as “*Rwanda Environment Management Authority “REMA”*”. It is in charge of supervision, following up and ensuring that issues relating to environment receive attention in all national development plans. This authority also advises the Government on policies, strategies and legislation related to the management of the environment as well as the implementation of environment related international conventions, at any time it is necessary.

D. Law N°57/2008 of 10/09/2008 relating to the prohibition of manufacturing, importation, use and sale of polythene bags in Rwanda

This law prohibits the manufacturing, usage, importation and sale of polythene in Rwanda. According to this law, any unauthorized person who sells polythene bags shall be punished by a fine ranging from ten thousand (10.000 Rwf) to three hundred thousand (300.000 Rwf) Rwandan francs. Any unauthorized person who uses polythene bags shall be punished by a fine ranging from five thousand (5000 Rwf) to one hundred thousand (100.000 Rwf) Rwandan francs and his/her bags shall be confiscated. All persons mentioned in this Article shall be dispossessed of their Polythene bags and the bags shall be taken to the appropriate stores established by REMA.

3. Other related-regulations

A. Environmental Impact Assessment Regulations

REMA has developed the EIA regulations which provide a guideline and requirements for EIA in Rwanda. Projects with identified adverse impacts on environment call for a full EIA process for mitigation measures and thus the Ministerial Order N°004/2008 of 15/08/2008 establishing the list of works, activities and projects that have to undertake an environmental impact assessment highlights some projects as follows; construction and repair of international and national roads, plants, large bridges, industries, factories, hydro dams and electrical lines, public dams for water conservation, large hotels public building which accommodate more than one hundred daily, extraction of mines and public land fills among others.

B. Ministerial order N°002/2008 of 01/4/2008 determining modalities of land registration

This order defines the modalities for land registration, including the establishment of a Register of Land Titles, procedures for the registration of titles to land and other interests in land, transfers of title to land and other transactions related to land, and related matters.



C. The Act n°18/2007 dated 19/04/2007 related to expropriation due to a cause of public necessity

Since Kigali is composed of many informal settlements (more than 80%), an act related to expropriation is very important. This act takes into account:

- » The constitution funds related to the request of expropriation (set price);
- » The funds of assessment of expropriation's compensation;
- » The funds of payment of a fair compensation.

The competent authority together with the decision of expropriation due to a cause of public necessity are reserved to the Ministry in charge of Land within its responsibilities (Ministry of Environment, Lands, Water and Mining) because the expropriation is to be dealt with in over one district (article 3, 4 and 5). The examination are undertaken to fulfil (complete), the act referring to the demand's tariff which will be published by ministerial decree and which will be revised periodically. Meanwhile, a letter dated 27 October 2005 N° 2494/16.03/01.03 addressed to districts, towns and the city of Kigali proposes the alternative to proceed to the agreement between the expropriated and the expropriators according to the actual market (contract's) prices.

The article 16, precise that after the publishing of the last decision related to the expropriation due to a cause of public necessity, the competent land commission elaborates (draws up) an exhaustive list of owners and the persons holding right to land and to the achieved work on the funds. That list is displayed within a place which is to be reached by the public at the Office of the District, area and quarter concerning the ground's location so that the concerned persons may become a ware. The expropriation process can not extend a period of four (4) months starting from the date of decision- making related to the expropriation by the targeted organs at the article 10 of the present act. The article 17 stipulates that the works of measuring and calculation of expropriation compensation are carried on in presence of proprietors (owners) or persons holding right or their representatives and the representatives of the local authorities. The article 24 mentions that the fair compensation determined by the land's commission is deposited within a due time which does not exceed one hundred and twenty days (120) starting from the day of its determination, otherwise the expropriation is annulated and becomes without any effect.

iii. Institutional Framework

The *Institutional Sanitation Framework* is still evolving. The Sanitation Sector is characterized by significant structural changes and reforms, either accomplished in recent years or still on-going. In Rwanda, the Sanitation Sector involves several stakeholders, including government state institutions, NGOs, civil society, the private sector, decentralised entities and donors. Responsibilities of each stakeholder for environmental concerns and sanitation are presented in table 2.

Table 2. Division of responsibilities of stakeholders in sanitation sector

Institutions	Responsibilities	Observations ¹
MININFRA	Implementation of investment and labour intensive Water and Sanitation projects, funding sanitation projects, prepares and monitors and regulates water quality and hygiene standards, setting policies related to sanitation, water supply, infrastructure, urbanization and settlements, supports districts in the construction of water supply systems, latrines and hygiene promotion	Common responsibilities: Monitoring and Regulation (1), Hygiene promotion (1), Funding (1), Policy Making (1), Technical support (1)
MINISANTE	Control and monitor activities of all the hospitals, health services in respecting regulations on hospital and hazards waste management and promote sanitation, healthy standards and regulations for water and sanitation, funding the construction of latrines within the hospital, overseeing the implementation of Environmental health related programmes that mitigate water borne diseases, promoting of hygiene among the population; developing policies, strategies and guidelines for sanitation as well as medical waste disposal and treatment, takes the lead in household sanitation and hygiene promotion	Common responsibilities: Hygiene Promotion (2), Monitoring and Regulation (2), Funding (2)

MINELA	Define the overall Policy of Water and Sanitation, mobilise funds for the Sanitation Sector, provides support to districts in the sector, organises activities of land as well as of WSS, planning of Water and Sanitation projects, funding of Water and Sanitation projects, using governments funds, but also bilateral and multilateral donors funds	Common responsibilities: Funding (3), Policy Making (2), Land (1), Technical support (2)
MINALOC	Ensure good governance in all local administration levels including environment governance at local level, playing an intermediary role in channelling funds for development projects, over-seeing various community environment management related programmes: Vision 2020 Umurenge, HIMO, Ubudehe and CDF which involve poor communities to participate in various initiatives aimed at enhancing their income so that they can have access to micro-credit and start income generating activities	Common responsibilities: Funding (4), Governance (1), Participation (1)
MINICOFIN	Coordinates the National Budgeting, Planning and Financing Framework, including WSS services sector, resource mobilization, and coordination of development partners and allocation of budgets to different Ministries and sectors, overseeing and advising on the formation of various funds (including the Environment Fund), mainstreaming Sanitation concerns in the budgetary DDP processes	Common responsibilities: Funding (5), Planning (1)
MINIJUST	Develops and advises on formulation of laws and regulations, oversees the formulation and enactment of various laws and regulations including those that are pertinent to the environment and sanitation sector	Common responsibilities -

MINEDUC	Partners for educational programmes (development of relevant curricula in coordination with MININFRA) and school sanitation programmes, training human resources in the management and protection of environment; funding the construction of schools latrines, oversees the implementation of environmental education programmes in schools (by supporting Environmental Clubs), as well as initiating the process of mainstreaming environment into schools	Common responsibilities: Funding (6), Training (1)
REMA	Set up Environment Standards and Regulations (e.g. EIA, etc.), monitor and comply with environmental awareness, leading role in enforcement of environmental regulations and awareness promotion campaigns about domestic and industrial solid waste management, act as the implementation organ of environment-related policies and laws, coordinates different environmental protection activities undertaken by environmental promotion agencies as well as supporting local levels in the sector of environment	Common responsibilities: Monitoring and Regulation (3), Implementation (1), Technical support (3)
RURA	Ensure that basic services including Water and Sanitation are provided according to the required standards and that there is good conditions for fair completion in provision of those public services (i.e. water and sanitation)	Common responsibilities: Monitoring and Regulation (4)



EWSA	Water production and distribution in countrywide; responsible for urban sewerage systems and sludge emptying services, coordination of all activities related to the programmes aimed at development of water and sanitation, sensitisation of users of water in any way possible, as well as sanitation infrastructure, proper management of water and sanitation, funding the construction of sanitation and water facilities, waste management	Common responsibilities: Distribution (1), Funding (7)
Land National Centre	Responsible for Land Administration and Management both at the National and Decentralised level and support the local level in the sector of land	Common responsibilities: Land (2), Technical Support (4)
Rwanda Bureau of Standards (RBS)	Participates in inspection of Sanitation systems of hotels and other businesses along with MINISANTE and the City of Kigali	Common responsibilities: Inspection (monitoring) of sanitation services (5)

<p>Kigali Council, Districts (Nyarugenge, Gasabo and Kicukiro)</p>	<p>Execute and implement the state regulations on environmental protection at local (city) level, participate in inspection of sanitation systems, hygiene for hotels and in Policy Making process, land and environmental management, urban planning, sanitation plants maintenance, providing drinking water, sanitation, and waste treatment and disposal, mobilise funds (e.g. tax collection as stipulated by law and decentralisation policy), prepare budgets and</p> <p>projects including those related to environment and sanitation, implement government policies and specific projects and participate in policy making process</p>	<p>Common responsibilities:</p> <p>Implementation (2), Inspection (6), Funding (8)</p>
<p>NGOs and International Organisation (BAD, WB, EU, UN-Habitat, WHO, etc.)</p>	<p>Provide Water and Sanitation facilities, especially to the poor, provide technical support, advice in policy making in this sector of sanitation</p>	<p>Common responsibilities:</p> <p>Funding (9), Policy Making (3), Technical Support (5)</p>

Source: Author, compiled from different documents related to Environment and Sanitation, 2011.

From this table above, as well as the “Policy and Legal Framework” presented earlier, the main question we can ask ourselves is what lessons can be drawn. In order to answer to this question, this paper makes a small analysis and discusses at which points the current “Policy, Legal and Institutional Framework” might be adjusted to ensure improved sanitation.

iv. Analysis and discussions

As presented above, several ministries and other central institutions as well as local and international institutions are currently involved in the sanitation sector. This means that one may understand that each agency must perform the same tasks of



environmental management of the state. Thus, although Rwanda now has environmental protection agencies, the legal and policy system for sanitation is deficient. First, the responsibility of environmental institutions seems cumbersome. In fact, there is duplication of responsibilities as well as gaps and missing elements in the regulatory provisions for effective improved sanitation. As a matter of fact, at the national level, MININFRA is actively involved in the sanitation funding of latrines projects, policy making, monitoring and regulation while at the same level, MINIRENA and MINISANTE and EWSA are also responsible for funding and regulating sanitation services. Another thing that needs to be emphasised on is that water and sanitation are under the direct control of MININFRA while REMA is mandated to carry out all environmental issues; including sanitation and it (REMA) is under the direct control of MINIRENA. This means that REMA is outside the direct control of MININFRA which is the overall of sanitation sector, and therefore the relations between MININFRA and REMA are unclear.

Second, I heard from the Ministry of Infrastructure that there is a lack of legal expertise in environment at MININFRA where the great proportions of staff are engineers. In fact, the common problem is that legislation and policy makers at MININFRA have not sufficient (or lack of) knowledge on environmental domains.

Thirdly, the responsibilities of MININFRA, MINIRENA and other public institutions are defined by the term “cooperate”, which is ambiguous. The MININFRA is responsible to the government for sanitation management, but it is not clear whether or not it (MININFRA) has powers over other ministries (MINIRENA, MINISANTE, etc.) or other public institutions like REMA and Kigali city², especially in the sanitation sector. This shortcoming leads to the overlapping of tasks between institutions when implementing environmental policies and laws.

Fourth, through the “Organic Law on Environmental Protection, Conservation and Management”, REMA is mandated to establish modalities and regulations for the collection and use of the environment-protection fees. The problem is that REMA is not in position to establish modalities and regulations on the sanction since it has no expertise in the financial domain. As a consequence, the law shows its weakness in establishing regulations on fines for general violations that seem even to be unclear as legal texts. There is not, as yet, adequate information on how these fines are being applied, nor the circumstances under which forcible compensation or forcible cessation of violations are being imposed.

At the city level, overlaps merge between the REMA and the Kigali city whereby REMA seems to be mandated to carry out all the environmental matters even at the city level such as enforcing regulations, inspecting and monitoring activities. It is expected to shoulder numerous tasks of inspecting and licensing industrial enterprises, collecting samples, appraising EIA processes and imposing penalties for environmental violations, promoting environmental protection awareness. The problem is that there are various agencies such as RBS, Kigali city, MINISANTE with mandates to carry out the same or very general tasks. As such, this makes it difficult for the institutions concerned to define their mandates because of that generality in the division of responsibilities.

² It is important to highlight that Kigali city is under the direct control of MINALOC, which means that it is difficult of MININFRA to monitor what being done by the Kigali city



v. Conclusions and recommendations

The legislative and policy system concerning environment and sanitation in Rwanda is still poor in effectiveness. Although regulations should be concise and easily understood, there is a need for them to be detailed, with specific provisions (or clauses) addressing significant issues. In general, the policy documents still remain very broad and general documents and set out only a basic framework.

While the fees from waste collection services may cover primary collection costs, it seldom covers full transfer, treatment and disposal costs, especially among the low-income groups. To achieve equity of waste service access, some charge systems and/or financing out of general revenues must be promoted and enforced. For example, large-scale waste producers should pay the full cost of disposal services as Rwanda is of the “polluter-pays principle”.

Setting up the administrative structures of environmental and sanitation agencies should be one of the highest priorities. This is the main problem in implementing environmental policies and any programs that aim to improve the urban services and the quality of urban environment. This is because the choice of policy and regulatory instruments will determine in a large the responsible level of government and the type of institutions as well as the mechanisms for enforcement. The agency given responsibility for implementing sanitation policies must have a clearly delineated authority and adequate expertise to carry out its enforcement functions.

Moreover, the overall legislations system relative to the sanitation, as it stands, needs to be further developed by specific regulations for implementing, executing and monitoring each step of the management process, as well as being reconciled with other laws. For me, instead of promulgating a number of various and fragmented texts, governments at both national and local levels should unify legal texts around specific issues. For example, an overall document that synthesises all of the legal texts relating to sanitation of the country and the city of Kigali should be established. Regulations on sanitation should be complemented by a policy document, and by technical guidelines developed for its implementation. Accordingly, the policy documents should outline the rationale for the legislation, plus national goals and the key steps essential for the achievement of the goals. The technical guidelines associated with the legislation should be practical and directly applicable.



References

Anand, P.B (2006) *Millennium Development Goal 7: An assessment of Progress with respect to Water and Sanitation, Legacy, Synergy, Complacency or Policy?* UNU-WIDER

Koanda, H (2006) *Vers un assainissement urbain durable en Afrique subsaharienne: Approche innovante de planification de la gestion des boues de vidange.* Ecole Polytechnique Federale de Lausanne, PhD thesis, Lausanne, Suisse

Mehta, A. and Knapp, A (2004) 'The challenge of financing sanitation for meeting the MDGs'. Presented on the 12th conference of the United Nation Commission on Development at New York, USA.

MINECOFIN (2007) *The Economic Development and Poverty Reduction Strategy (EDPRS)*, Final Draft: Kigali: Government of Rwanda.

MINECOFIN (2002) *Vision 2020*, Kigali: Government of Rwanda.

MINECOFIN (2002) *National Investment Strategy*, Kigali: Government of Rwanda.

MINELA (2005) *Organic Law No08/2005 of 14/07/2005 determining the Use and Management of Land in Rwanda*, Kigali: Government of Rwanda.

MINELA (2005) *Organic Law No 04/2005 Of 08/04/2005 determining the modalities of protection, conservation and promotion of Environment in Rwanda*, Kigali: Government of Rwanda.

MINIRENA (2008) *Law N°57/2008 of 10/09/2008 relating to the prohibition of manufacturing, importation, use and sale of polythene bags in Rwanda*, Kigali: Government of Rwanda.

MININFRA (2008) *The National Urban Housing Policy for Rwanda*, Kigali: Government of Rwanda.

MININFRA (2010) *National Policy and Strategy for Water Supply and Sanitation Services*, Kigali: Government of Rwanda.

MINIRENA (2004) *National Land Policy*, Kigali: Government of Rwanda.

MINIRENA (2008) *Phase I of National Land Reform Programme in Rwanda: Technical notes on GIS and Remote Sensing for Land Reform in Rwanda*, Kigali: Government of Rwanda.

MINIRENA (2007) *National Land Tenure Reform Programme: Strategic Road Map Workshop 3rd and 4th October 2007*, Kigali: Government of Rwanda.

MINISANTE (2005) *Rwanda's Health Sector Policy*, Kigali: Government of Rwanda.

MINISANTE (2008) *Health Sector Strategic Plan January 2009-Dec 2012*, Kigali: Government of Rwanda.

MINITERE (2003) *National Environment Policy*, Kigali: Government of Rwanda.

MINITERE (2004) *National Land Policy*, Kigali: Government of Rwanda.

MINITERE (2008) *Strategic Road Map for Land Tenure Reform*, Kigali: Government of Rwanda.



Musahara, H. & Huggins, C (2005) 'Land Reform, Land Scarcity and post conflict reconstruction: A case study of Rwanda. Ch. 6 in H. Musahara (2002) *Poverty and land*. ACTS/ISS

Musahara, H (2006) *Improving land tenure security for the poor in Rwanda*, Workshop document, Food and Agriculture Organization of the United Nations

REMA (2006) *General guidelines and Procedure for Environmental Impact Assessment*, Kigali: Government of Rwanda.

REMA (2011) *Environmental and social management framework for Rwanda under LVEMP II* (Final report), Kigali: Government of Rwanda.

Republic of Rwanda (2003) *The Constitution of the Republic of Rwanda*, Kigali, Rwanda

Sano, J.C (2007) *Urban environmental infrastructure in Kigali city (Rwanda): (Challenges and Opportunities for Modernised Decentralised Sanitation Systems in Poor Neighborhoods)*. Master's thesis, Wageningen University, Netherlands

Sou, Y.M (2009) *Recyclage des eaux usees en irrigation: potential fertilisant, risques sanitaires et impacts sur la qualite des sols*. Ecole Polytechnique Federale de Lausanne: PhD thesis, Lausanne, Suisse

World Bank (2005) *Environmental and Social Framework for World Bank Projects with Multiple Small scale subprojects*, Africa Region.

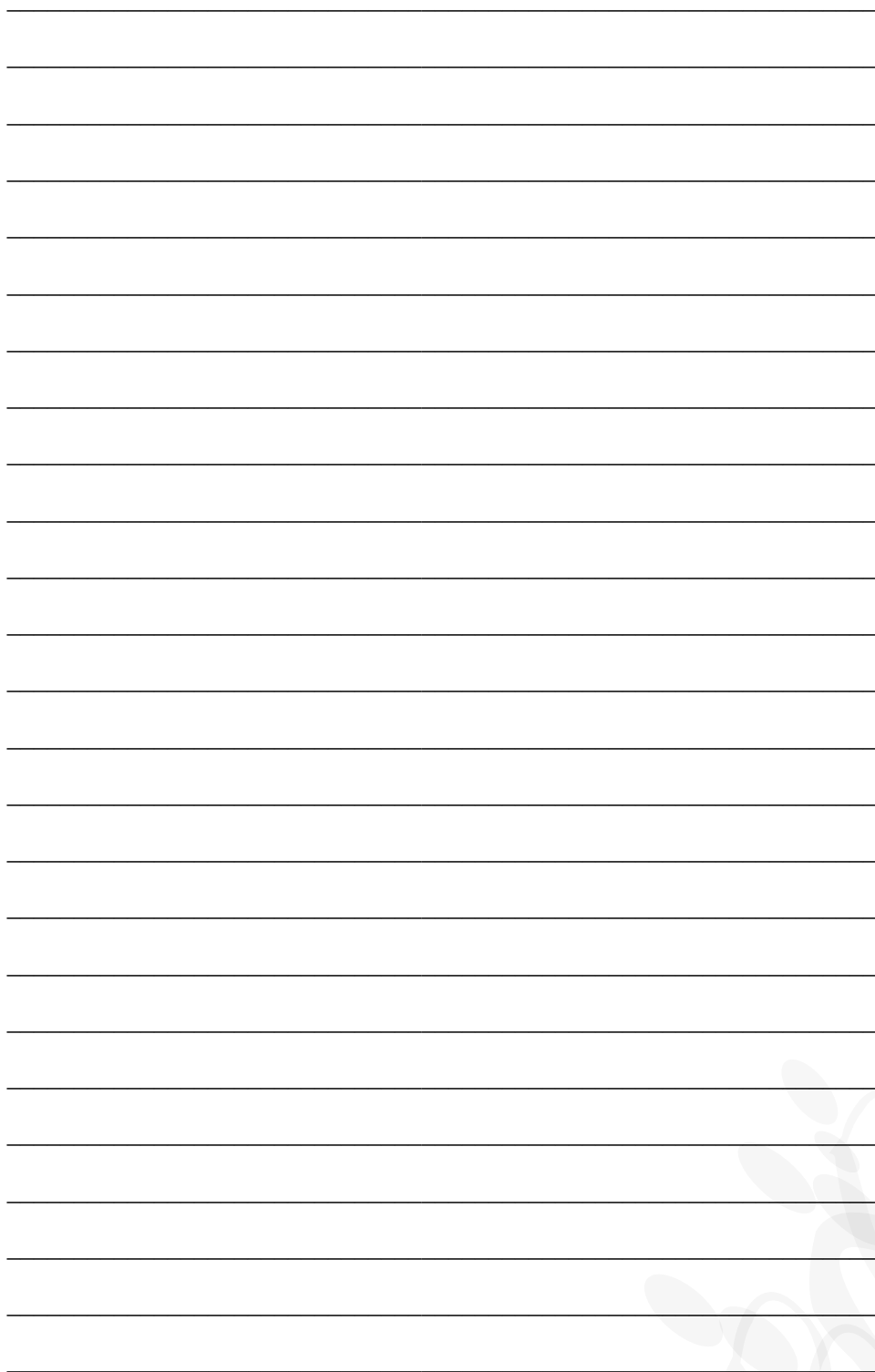
(Footnotes)

I These figures 1, 2, 3, etc. explain duplication of responsibilities. For details, please see "analysis and discussions (IV)"



NOTES

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